#### PRESOLICITATION PHASE

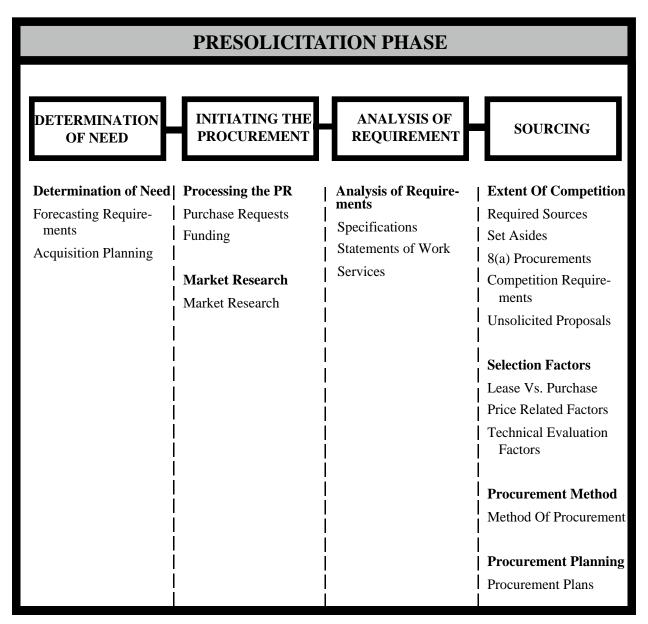


Exhibit 6-1. Presolicitation Phase of the Federal Acquisition Process.

### **Learning Objectives**

The learning objectives for this chapter are located at the front of the section or subsection to which they apply and are highlighted with grey shading. After completion of this chapter, you will be expected to know all the highlighted learning objectives for this chapter.

Exhibit 6-2. Learning Objectives.

#### CHAPTER INTRODUCTION

In the Presolicitation Phase, the Government decides what is needed, and plans how it will be acquired. The major functions of the Presolicitation Phase are shown in Exhibit 6-1. This chapter describes these functions.

#### 6.1 DETERMINATION OF NEED

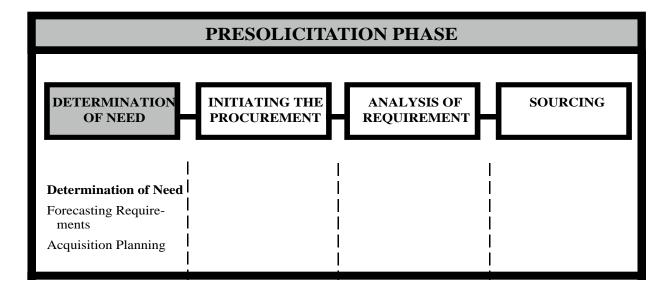


Exhibit 6-3. Determination of Need (First Function of the Presolicitation Phase).

Determination of need is the first function in the entire procurement process.

Once a need for supplies or services has been established, a decision is made whether to:

- Fulfill the need "in-house," using agency facilities and personnel or
- Fulfill the need by contracting.

If a decision is made to fulfill the need by contracting, the procurement process is activated. For the process to be efficient and effective, it must be activated in accordance with a plan.

#### **6.1.1** Forecasting Requirements

#### Describe and define:

- Who forecasts needs.
- Why forecasting is necessary.
- What role the CO plays.

# Responsibility for Forecasting Needs

Each requiring activity has the responsibility to forecast its needs for supplies and services. (Requiring activities are any organizations that request supplies and services, e.g., program offices, inventory control points, etc.).

#### Purpose

Forecasting needs helps to ensure that the resulting procurements will:

- Support the mission of each requiring activity or program in a timely manner,
- Coincide with the preparation of budgets and availability of budgeted funds,
- Be accomplished in accordance with acquisition laws and regulations, and
- More fully realize the goals of the acquisition system as described in Chapter 1.

#### The CO's Contribution

By being aware of the current and future needs of the various organizations, the CO can (1) help requiring activities develop realistic program plans, schedules, and budgets and (2) recommend long-range strategies for reducing the resources and time required for mission accomplishment. Specifically, the CO can advise requiring activities on such matters as:

- Consolidating needs to attain economic ordering quantities.
- The availability of sources and strategies for enhancing competition.
- Market prices, conditions, and trends.
- Production and delivery lead times.
- The best time to enter the market.
- Costs incurred, milestones, problems, and lessons learned from previous acquisitions for comparable requirements.
- Strategies for reducing procurement and delivery leadtimes.

The CO uses forecasts in the next step — acquisition planning.

#### 6.1.2 Acquisition Planning

#### FAR 7.1

#### Describe and define:

- Why acquisition planning is necessary.
- Who is involved in developing acquisition plans.
- The benefits of acquisition planning.
- Typical elements of acquisition plans.

#### Definition and Purpose

#### **Acquisition planning** means

FAR 7.101 & FAR 7.102

"the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition." Among the many goals of acquisition planning: "Acquiring commercial and Nondevelopmental Items (NDI)".

## Responsibility for Planning

Simply stated, after the need for supplies or services is identified, a plan is drawn up to obtain them. The plan identifies the people involved and what they must do.

The organizations and persons responsible for acquisition planning will vary from activity to activity. Generally, the responsibility is divided along organizational lines. For example, within GSA, the Federal Supply Service will plan its acquisitions; the Public Buildings Service will plan its acquisitions, etc.

Within an organization, planning is the responsibility of the heads of the divisions or branches that originate the requirements. Usually, a senior person within a "requiring activity" is responsible for planning a specific acquisition; this planner could be the responsible commodity manager, inventory manager, or program or project officer. That person should coordinate planning with those organizations or persons who will play a role in the acquisition, including the contracting activity.

#### Benefits of Planning

Agencies perform acquisition planning and conduct market surveys for all acquisitions to:

- Maximize competition.
- Integrate the efforts of all personnel responsible for the acquisition.
- Ensure that needs are met in the most effective, economical, and timely manner.

Agencies establish criteria and thresholds at which greater detail and formality are required in the plan such as:

- Dollar value.
- Size.
- Complexity.
- Scope, nature, and circumstances of the acquisition.

### Elements of an Acquisition Plan

Acquisition plans generally consider and discuss:

- (1) Acquisition background and objectives.
- (2) The plan of action.

In Exhibit 6-4, these two factors are broken down into their component elements. Depending for the most part on the requirement, these elements may have to be addressed in your acquisition plan.

### Implementing Acquisition Plans

Acquisition plans are generally prepared by requiring activities and serve, among other purposes, as the basis for initiating the individual contracting actions necessary to acquire a system or support a program. For example, acquisition plans often provide for "breaking out" and separately competing requirements for installation, maintenance, spares, repairs, and the like. Each such requirement represents a separate contract action.

To initiate an individual contract action, the requiring activity prepares and forwards a Purchase Request (PR) to the CO. The CO in turn delegates authority, assigns responsibilities, and identifies milestones for that PR. For the purposes of this text, these decisions by the CO represent the "procurement plan" of the contracting office for that PR (see Section 6.4.4).

#### ELEMENTS OF A TYPICAL ACQUISITION PLAN

#### **FAR 7.105**

- 1. Acquisition Background and Objectives.
  - Statements of need (what it is).
  - Applicable conditions.
  - Cost.
  - Capability or performance characteristics.
  - Delivery or performance-period requirements.
  - Trade-offs (among cost, schedule, etc.).
  - Risks.
  - Acquisition streamlining.
- 2. Plan of Action.
  - Sources.
  - Competition.
  - Source selection procedures.
  - Contracting considerations.
  - Budgeting and funding.
  - Product descriptions.
  - Priorities, allocations, and allotments.
  - Contractor vs Government performance (OMB Circular A-76).
  - Inherently governmental functions.
  - Management information requirements.
  - Make or buy.
  - Test and evaluation.
  - Logistics considerations.
  - Government-furnished property.
  - Government-furnished information.
  - Environmental considerations.
  - Security considerations.
  - Milestones for the acquisition cycle.
  - Identification of participants in acquisition plan preparation.
  - Other considerations, such as energy conservation, standardizations, etc.

Exhibit 6-4. Elements of a Typical Acquisition Plan.

#### The Livingston's Grand Plan

As the Livingstons' had to do in "The House Dilemma" in Chapter Five, you must answer the first question of "What, precisely, do we want?" This is where determination of need and forecasting requirements come into play. You must determine first what you want and then whether it is possible on your existing budget. As in building a house, in purchasing for the Government your first steps are determining your needs and forecasting requirements.

Having identified your requirements, you must next answer the question "How do we plan to get what we want?" Using what you just read about acquisition planning can help you answer this question. You should list all of the objectives that you identified in the determination of need step, and write a plan for action in order to achieve them. You must decide what capabilities, qualifications, and experience a contractor should have (e.g., a general contractor with experience in home building and a record of satisfactory performance) in order to perform the required work. Your requirements must be within your budget. You need to set milestones for the delivery of specific parts of the house (e.g., date for when the house will be framed, date for when the dry wall will be completed, etc.). You should determine what types of materials you want the builder to use. As you can see, many of the things you wrote down in your determination of need step will help you with your acquisition plan.

The Federal Acquisition Process is an ongoing step-by-step process. Each step leads to the next. Planning is of utmost importance to the process. Your next step is initiating the procurement (i.e., putting the plan in action).

#### 6.2 INITIATING THE PROCUREMENT

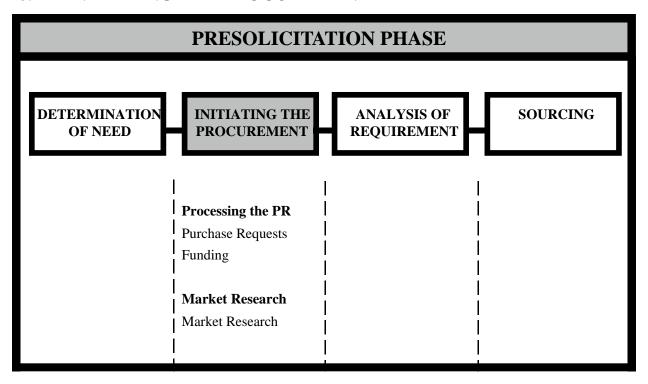


Exhibit 6-5. Initiating the Procurement (Second Function of the Presolicitation Phase).

After needs are determined, the requiring activity prepares and forwards a purchase request to the contracting activity for each individual procurement. The initial steps in a procurement are:

- Processing the PR.
- Certifying the availability of funds.
- Identifying the sources from which the supplies or services might be obtained and collecting data on that market.

#### **6.2.1** Processing the Purchase Request

### **6.2.1.1 Purchase** Requests

Define and describe:

- Purpose of the Purchase Request.
- Acceptance of the PR.
- Elements of a Purchase Request.
- Steps in processing accepted PRs.

Purpose

The purpose of a purchase request (PR) is to provide the CO with the information and approvals necessary for initiating a procurement.

The CO should advise and assist the requiring activity in preparing a PR. The more the requiring activity consults with the CO during acquisition planning, the more the CO can assist during PR preparation.

Accepting PRs

The PR should be a precise document. If there are any major deficiencies or omissions, the CO should not accept the PR but rather contact the requiring activity to obtain any missing information or make the necessary corrections.

Defective PRs

Procurements commenced on the basis of a defective PR are likely to be troublesome at some point in the process. For example, if a single source acquisition is initiated without justification and approvals, the action may later be protested and the entire process disrupted and delayed. Other consequences of accepting a deficient PR might include:

- Need to cancel a solicitation because of improper approvals or lack of funds.
- Failure to order an economic quantity.
- Failure to include price-related evaluation factors in the solicitation.

Elements

There is no Governmentwide standard form for PRs. As a result, PRs often vary in format from one contracting activity to the next. Despite differences in form, PRs generally tend to have certain elements in common. Exhibit 6-6 shows some of these elements.

#### TYPICAL ELEMENTS OF A PR

- Management reviews and approvals as required by agency policies.
- Certification of funds available for the procurement.
- Quantity of the item(s) to be procured.
- Description of the requirement:
  - specifications.
  - statement of work.
  - purchase descriptions.
- Any special packaging and marking requirements recommended by the requiring activity.
- Inspection and acceptance requirements.
- Delivery or performance requirements.
- Any special contract administration requirements recommended by the requiring activity.
- Any special provisions or clauses (e.g., options, Government-furnished property) recommended by the requiring activity.
- Price-related factors for award (if applicable) recommended by the requiring activity.
- Technical evaluation factors for award (if factors in addition to price are applicable) recommended by the requiring activity.
- Recommended sources.
- Justifications and approvals for other than full and open competition, if needed.
- Acquisition plan, if required.

Exhibit 6-6. Typical Elements of a PR.

### Steps in Processing Accepted PRs

After accepting the PR, COs often:

- Establish a contract file.
- Counsel managers on protecting source selection information from unauthorized disclosure.
- Enter the PR in the activity's "tracking" system.
- Start the clock on "Procurement Administrative Lead Time" (PALT). PALT represents the time between (1) acceptance of the PR and (2) award of the contract.

#### **6.2.1.2** Funding

#### Explain:

- How funds are committed.
- Funding issues.
- The Anti-Deficiency Act.

Committing Funds for Planned Acquisitions

FAR 32.7

In Section 2.1.2, you learned how funds are appropriated, apportioned, obligated, and converted into outlays. Recall that funds are obligated when the Contracting Officer (CO) awards a contract. The question is how appropriated funds are committed for obligation by the CO.

Two parties commit funds:

- The Authorizing Official, who enters appropriation data (a fund citation and estimated dollar amount) on the PR.
- The Finance Officer, who (1) deducts the PR's dollar amount from the requiring activity's funding account and (2) certifies the availability of those funds on the PR.

Importance of Verifying the Availability of Funds

It is improper to solicit offers unless there is a reasonable expectation that a contract will be awarded. Because a contract cannot be awarded without adequate funds, the availability of funds generally must be certified on the PR before offers are solicited. Similarly, funds must be available when processing a contract modification that will increase the contract price.

**Funding Issues** 

The following aspects of funding are of particular importance to the CO.

- Funds are appropriated for either a specific use or for a category
  of uses. For example, some funds are only used for research and
  development programs, while others are used for operations and
  maintenance. The CO must ensure that the correct funds are
  cited.
- Funds have a life in terms of a date by which they must be obligated. In some cases, funds may be used only for work completed within a given fiscal year. Funds are normally "good" for one year or for a specific number of years. The CO must ensure that the procurement is completed (from solicitation of offers to contract award) before the funds "expire."

- Funds must be adequate for the procurement. If the CO believes the funds are inadequate, he or she might request that the requiring activity either:
  - Make additional funds available, or
  - Reduce the quantity of supplies or level of service to be procured.

#### Anti-Deficiency Act



The CO ensures that the right kind and amount of funds are available for the solicitation and, later, for contract award. Failure to do so could result in delay or cancellation of the procurement. Even worse, from a personal standpoint, if the CO awards a contract and there are insufficient funds, he or she may be personally responsible for payment under the provisions of the Anti-Deficiency Act.

COs may solicit for unfunded, prospective requirements by:

- Making the solicitation "subject to the availability of funds."
- Including options for increased quantities or extension of the contract period.
- Use of Indefinite Quantity or Requirements terms and conditions (see Section 7.1.1.1).
- Incorporating clauses that provide for year-by-year funding of multiyear requirements.

#### 6.2.2 Market Research

Describe the following elements of market research:

- Recognizing market data relevant to business decisions.
- Listing available sources of data on markets.
- Applying market data in making business decisions.

Purpose

Suppose you were considering purchasing a new car. Your first question might be, "What is available out there?" Other questions might be, "Which cars will suit my particular needs?," and "Are those cars in my price range?" To answer these and other questions, you do market research. Information obtained from that research would help you to identify suitable cars that are readily available, and affordable.

#### Definition

#### Market research means:

FAR 2.101 & 10.000

"Collecting and analyzing information about capabilities within the market to satisfy agency needs." The results of market research are used "to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services."

#### Requirements For

Contracting officers are required to research markets:

FAR 10.001

- Before developing new requirements documents for an acquisition by that agency.
- Before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold.
- Before soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information is not available and the circumstances justify its cost.

#### Collecting Data

The extent of market research and analysis will vary depending on the urgency, value, and complexity of the proposed acquisition. The following are among the types of data to collect:

FAR 10.001

- Availability of a commercial item suitable as is, or with minor modifications, for meeting the need.
- Practices of firms engaged in producing, distributing, and supporting the products or services, such as terms for warranties, buyer financing, maintenance and packaging, and marking.
- Requirements of any laws and regulations unique to the supplies or services being acquired.
- Number of sales and length of time over which they must occur
  to provide reasonable assurance that a particular product is
  reliable.
- The availability of items that contain recovered materials and items that are energy efficient.
- Distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.
- Size and status of potential sources.
- Customary practices regarding customizing, modifying or tailoring of items to meet customer needs and associated costs.
- Extent to which commercial items or nondevelopmental items could be incorporated at the component level at the component level.

#### POTENTIAL SOURCES OF MARKET DATA

- Technical personnel, commodity specialists, price analysts, and other in-house experts on the supply or service and its market.
- Acquisition histories available in your contracting activity.
- Catalogs and periodicals, including those published on-line.
- COs in other contracting activities and agencies.
- Industry buyers of the same or similar supplies or services.
- Sources sought synopses and surveys of potential suppliers.
- Trade and professional associations.
- Nonprofit standards and testing organizations.
- Government and non-government data bases.

FAR 10.002

Exhibit 6-7. Potential Sources of Market Data.

### Application of the Data

Market data are applicable to virtually all preaward duties and tasks, such as:

- Determining whether the requirement can be met by a commercial item and therefore is to be procured under FAR Part 12 policies.
- Reviewing proposed requirements documents to ensure that they encompass all acceptable products (if any) in the market.
- Determining when to buy; establishing delivery schedules that are realistic in terms of market conditions and practices.
- Identifying potential sources for the solicitation mailing list.
- Reviewing sole source justifications.
- Determining whether to set the procurement aside for small business concerns.
- Determining whether to buy or lease.
- Identifying price-related and non-price evaluation factors.
- Identifying terms and conditions for the solicitation (e.g., those that are customary in markets for commercial items).
- Establishing quantity breaks.
- Estimating the proper price level or value of the supplies or services.

#### **6.3 ANALYSIS OF REQUIREMENT**

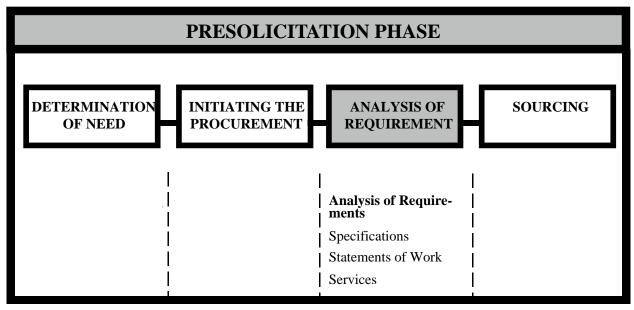


Exhibit 6-8. Analysis of Requirement (Third Function of the Presolicitation Phase).

Analysis of requirement is the third function in the Presolicitation Phase. You should note, however, that these Presolicitation Phase functions do not take place in isolation from each other. For example:

- The requirement must be analyzed to some degree before starting market research.
- The amount of funding is a function in part of the requirement.

#### **6.3.1** Analysis of Requirements

# 6.3.1.1 Specifications & Other Requirements Documents

FAR Part 11

Describe and define the following:

- Types of requirements documents.
- Federal and Military indexes of specifications and standards.
- Impact of requirements documents on competition.
- Impact of requirements documents on responsibility for performance.
- Impact of requirements documents on cost or price.

Requirements documents are the specifications and/or statement of work for the requirement. The CO may accept requirements documents proposed by the requiiring activities "as is" or recommend improvements. In making this determination, COs review the proposed documents to, among other purposes, ensure that the documents:

- Promote full and open competition, or maximum practicable competition when using simplified acquisition procedures, with due regard to the nature of the supplies or services to be acquired.
- Only include restrictive provisions or conditions to the extent necessary to satisfy the needs of the agency or as authorized by law.
- Enable and encourage offerors to supply commercial items, or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items.
- Provide offerors of commercial items and nondevelopmental items an opportunity to compete in any acquisition to fill such requirements.
- Require prime contractors and subcontractors at all tiers under the agency contracts to incorporate commercial items or nondevelopmental items as components of items supplied to the agency.
- To the maximum extent practicable, are phrased in functional or performance terms.

Types of Requirements
Documents

There are three types of specifications: Functional, Performance, and Design. (Note, however, that specifications for complex requirements may be in part functional, in part performance, and in part design.)

#### **Functional Specifications**

- Describe the deliverable in terms of performance characteristics and intended use, including those characteristics which at minimum are necessary to satisfy the intended use. The focus is on "What is to be done?" or "What need is to be fulfilled?"
- Does not specify any particular approach or type of product.
- Least restrictive type of specification.
- Example: A requirement for a system to purify water, leaving the door open to proposals for providing a chemical additive system, a filtration system, a distillation system, a biosystem, some combination of these systems, or any other approach that will achieve the Government's goals for purity, throughput (e.g., gallons per hour), and systems life.

#### **Performance Specifications**

- Describe the deliverable in terms of desired operational characteristics. Where an item is purchased against a performance specification, the contractor accepts general responsibility for design, engineering, and achievement of the stated performance requirements. The contractor has general discretion and election as to detail but the work is subject to the Government's reserved rights of final inspection and approval or rejection.
- Tend to be more restrictive than functional, in terms of limiting alternatives which the Government will consider and defining separate performance standards for each such alternative.
- Example: A requirement for a filtration system to purify water which is cast in terms of operational characteristics (e.g., measures and levels of purity, throughput, systems life, power requirements, etc.).

#### **Design Specifications**

Establish precise measurements, tolerances, materials, in process and finished product tests, quality control, inspection requirements, and other specific details of the deliverable. The Government assumes liability for the design and related omissions, errors, and deficiencies in the specification and drawings.

- Are the least desirable type of specification under Federal procurement policies, which require the use of functional or performance specifications in lieu of design requirements "whenever practicable."
- Example: A requirement for a filtration system to purify water which includes blueprints for the casing, valves, impellers, filters, and power module and also specifies the materials to be used for each component of the system.

#### **Standards**

- Establish engineering and technical limitations and applications of items, materials, processes, methods, designs, and engineering practices. Standards include any related criteria deemed essential to achieve the highest practical degree of uniformity in materials or products or interchangeability of parts.
- Standards supplement specifications and are generally incorporated by reference in the solicitation document.
- "Voluntary standards" are those established by a private sector body and available for public use. To the extent applicable, give "voluntary" standards preference over all other types of product descriptions (and give "commercial item descriptions" second priority).

FED Specs, MIL Specs, & PDs

To define requirements in solicitations, CO's either cite applicable Federal or Military specifications or incorporate purchase descriptions.

**Federal Specifications (FED Specs).** Specifications and standards for products commonly used by Government Agencies. GSA lists them in the Index of Federal Specifications, Standards, and Commercial Item Descriptions. Applicable FED Specs are generally incorporated by reference in the solicitation. Unless otherwise authorized, specifications and standards listed in this index are mandatory when acquiring the supplies covered by them.

Military Specifications (MIL Specs). The Department of Defense (DoD) maintains MIL specs and publishes them in the DoD Index of Specifications and Standards. Applicable MIL Specs are generally incorporated by reference in the solicitation.

**Purchase Descriptions (PDs).** PDs describe physical characteristics or functions required to meet the Government's minimum need. Prepare PDs when Fed Specs or Mil Specs are inapplicable or do not fully cover the requirement.

<sup>1</sup>FAC 90-9

Impact of the Specification

When preparing or reviewing specifications, consider their impact on:

**Competition.** Specifications should only exclude those products or services which cannot satisfy the Government's actual minimum needs. For example, you may only require that a deliverable be compatible with the equipment of XYZ Corporation if such compatibility is really needed. Otherwise, the specification may improperly rule out products of other corporations that can meet the need.

**Responsibility for performance.** Any error, imprecision, ambiguity, or other such deficiency in a specification may, in part, relieve the contractor of responsibility for acceptability of the work. For example, suppose that a contract includes a design specification, and the contractor builds the device in conformance with the specification. If the device doesn't work, who is responsible?

**Cost or price.** Specifications have a direct effect on the price the Government pays. Specifications should state minimum needs. Avoid "goldplating" — stating unnecessary requirements. For example, it would be wasteful to require that timers be waterproof if the timers will be wall-mounted in an office building.

### Commerciality **Determination**

As the last step in their review of proposed requirements documents, contracting officers determine whether or not the requirement can be met by a "commercial item", as that term is defined in FAR §2.101. This determination is made prior to soliciting offers and WITHOUT asking prospective offerors to certify that their items are "commercial".

If market research establishes that the requirement can be met by a commercial item or service (as defined in §2.101), contracting officers must observe the policies in FAR Part 12 to solicit offers and make award. If the Government requirement cannot be met by a type of item or service customarily available in the market place, the policies in Part 12 do NOT apply.

However, Part 12 does NOT apply to the acquisition of commercial items—

- At or below the micro-purchase threshold.
- Using the SF 44.
- Using the imprest fund.
- Using the Governmentwide commercial purchase card.

The new FAR Part 12 was written to make the process of buying commercial items as similar as possible to that used by private sector buyers in commercial markets. When acquiring commercial items, contracting officers may use any of the traditional methods of procurement using the procedures prescribed for that method in the relevant FAR Part (i.e., simplified acquisition under FAR Part 13, sealed bidding under FAR Part 14, or negotiation under FAR Part 15). However, the policies in FAR Part 12 impose unique constraints on the award process (particularly on the drafting of the solicitation) and on terms and conditions in the resulting contract. For instance, FAR Part 16 permits the use of any type of contract when soliciting and awarding contracts under FAR Part 15. FAR Part 12, on the other hand, only allows firm fixed price contracts and fixed price contracts with economic price adjustment in contracts for commercial items regardless of the method of procurement. In such cases, the policies in FAR Part 12 overrule conflicting policies in other FAR Parts.

### 6.3.1.2 Statement of Work

#### Describe:

- Basic elements of a Statement of Work (SOW).
- Related aspects of the requirement.
- Methods for obtaining industry feedback.

Definition

A Statement of Work (SOW) describes the contract work to be performed and incorporates any applicable specifications. COs review SOWs proposed by requiring activities against the criteria described in Exhibit 6-9.

#### CRITERIA FOR THE SOW

- Is a clear, precise, and complete statement of the work to be performed.
- Makes a clear-cut division of responsibility between the contracting parties.
- Does not exceed the Government's actual minimum need.
- Is not unduly restrictive.
- Is stated in terms that the market can satisfy.

Exhibit 6-9. Criteria for the SOW.

#### Elements

The scope and elements of a SOW varies greatly depending on what is being procured. A SOW for a major system will be complex, quite long, and incorporate numerous specifications. A SOW for lawn-mowing service, however, will be fairly simple and short. It may or may not incorporate any specifications. Exhibit 6-10 is a listing of the items that may be included in a SOW.

#### ITEMS THAT MAY BE INCLUDED IN THE SOW

- Background.
- General scope of work/objectives.
- Contractor tasks.
- Functional/performance/design specifications (e.g., common nomenclature, kind of material, technical data, dimensions, size, capacity, principles of operation, restrictive environmental conditions, and intended use).
- References to related studies, documentation, specifications, and standards.
- Data requirements.
- Support equipment for contract end items.
- Government- and buyer-furnished property, facilities, equipment, and services.

Exhibit 6-10. Items That May be Included in the SOW.

#### Related Aspects

While reviewing the SOW, COs should consider related aspects of the requirement in terms of (1) consistency with the SOW and (2) potential impact on such goals as quality, timeliness, cost, risk, and competition. Related aspects of the requirement include, among others:

- Packaging and marking requirements.
- Inspection and acceptance criteria.
- Delivery or performance requirements.
- Instructions for preparing and submitting offers.
- Any applicable price-related and technical evaluation factors.

Industry Feedback on the SOW

Prior to soliciting offers, requiring activities may wish to (1) assess the interest of prospective suppliers in providing the required supplies or services and (2) obtain feedback from the market on the proposed SOW. Working with the CO, such feedback can be obtained through:

- Presolicitation notices.
- Presolicitation conferences.
- "Solicitations for Information and Planning Purposes" (i.e., draft solicitations circulated for review and comment).

#### **6.3.1.3** Services

FAR Part 37

1. State the criteria for:

- Distinguishing personal from nonpersonal services
- Distinguishing "advisory and assistance services" from other types of services.
- Determining applicability of the Service Contract Act.
- 2. Briefly describe requirements for wage determinations.

#### **Definitions**

Service contracts are awarded for the "performance of an identifiable task, rather than for furnishing an end item of supply."

Personal vs. Nonpersonal Services

Services may be personal or nonpersonal:

- **Personal:** When contractor personnel appear to be, or are treated as, Government personnel.
- **Nonpersonal:** When contractor personnel are not subject to the supervision and control of Government personnel.

A nonpersonal services contract may involve either:

- **Professional** (e.g., engineering and technical) or
- **Nonprofessional** (e.g., janitorial) services, or both.

Agencies may not award personal service contracts unless contracting for such services is specifically authorized by statute. Nonpersonal service contracts are very common and include services such as those listed in Exhibit 6-11 on the next page.



But, beware: A nonpersonal services contract, if improperly administered, may be viewed as being a personal services contract. If so, it may be improper.

#### EXAMPLES OF NONPERSONAL SERVICES

FAR 37.101

- Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.
- Routine recurring maintenance of real property.
- Housekeeping and base services.
- Advisory and assistance services.
- Operation of Government-owned equipment facilities and systems.
- Communication services.
- Architect-Engineering.
- Transportation and related services.

Exhibit 6-11. Nonpersonal Services.

Service Contract Act & Wage Determinations

Generally, contracts for services are subject to the Service Contract Act (SCA) of 1965, which provides for "minimum wages and fringe benefits as well as other conditions of work..."

FAR 22.1

If a proposed contract involves services, the CO may be required to request wage determinations from the Department of Labor for some or all of the employees who provide the service. The Secretary of Labor is responsible for determining the prevailing wage rates by different geographic areas for those classifications of service employees that are covered by the Act. The CO includes the wage rates in the solicitation; offerors are then on notice that those rates are the minimum that must be paid under the resulting contract.

Sometimes, services and supplies are required under the same contract. As a general rule, if the service work is an incidental part of contract performance, the Service Contract Act does not apply.

Services

Advisory and Assistance Agencies sometimes contract for "advisory and assistance" services of the types described in Exhibit 6-12.

#### ADVISORY AND ASSISTANT SERVICES

FAR 37.203

- Individual experts and consultants.
- Studies, analyses, and evaluations.
- Management and professional support services.
- Engineering and technical services.

Exhibit 6-12. Advisory and Assistant Services.

Many times the persons most qualified to perform these services are former Government (civilian and military) personnel. Also, contractors who perform contracts for advisory and assistance services may later employ ex-Government personnel who worked with such contracts. Because of real and perceived conflicts of interest and ethical problems associated with such employment practices by the contractors, special approvals and controls have been established.



Before processing requests for advisory and assistance services, CO's ensure that the requested services may lawfully be acquired and that all required justifications, approvals, and certifications have been provided by the requiring activity.

#### 6.4 SOURCING

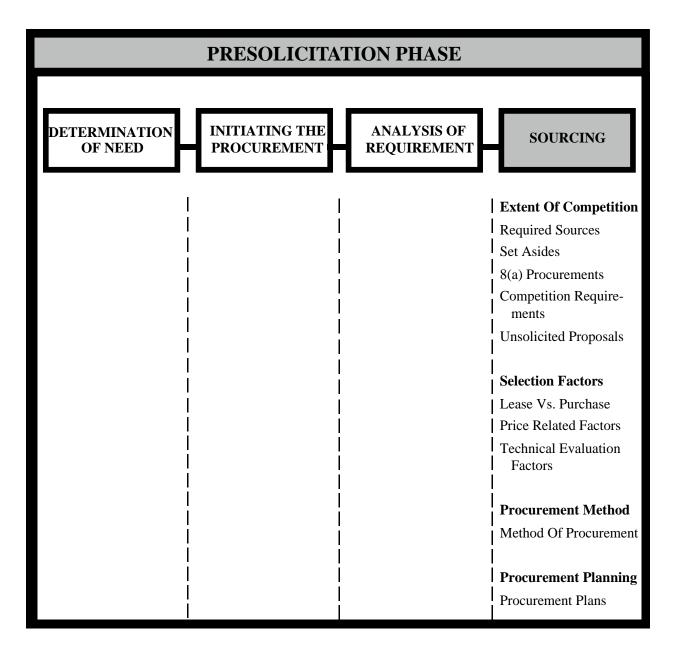


Exhibit 6-13. Sourcing (Fourth Function of the Presolicitation Phase).

Sourcing is the final function of the Presolicitation Phase. It involves:

- Determining the extent of competition for the requirement.
- Identifying the factors that will apply in selecting an offer for award.
- Selecting the method of procurement.
- Preparing a plan for soliciting and evaluating offers.

#### **6.4.1** Extent of Competition

One goal of the procurement process is to create competition among sources that provide supplies and services. However, other goals may result in limiting competition. The extent to which you foster competition depends on factors such as:

- Requirements in law or regulation to use specific suppliers.
- Requirements to set aside procurements for small business.
- Availability of suppliers under the 8(a) program.
- Requirements for "full and open" competition.
- The validity and suitability of an unsolicited proposal.

### 6.4.1.1 Required Sources

- List and describe the various required sources of supplies and services.
- Describe a solicitation mailing list and how it is used.

A number of statutes and regulations restrict the sources that may be solicited. If the needed supplies or services are available from a required source, the CO must order from that source instead of soliciting offers from the open market. With respect to supplies and services generally, CO's are required to consider the sources in Exhibit 6-14. In addition, specific suppliers have been prescribed for the supplies and services listed in Exhibit 6-15.

### REQUIRED SOURCES OF SUPPLIES AND SERVICES, IN PRIORITY ORDER

FAR Part 8

#### **Supplies**

- Agency inventories.
- Excess from other agencies.
- Federal Prison Industries, Inc.
- Procurement lists of products available from the Committee for Purchase from the Blind and Other Severely Handicapped ("Workshops").
- Wholesale supply sources, such as:
  - Stock programs of the GSA.
  - Defense Logistics Agency.
  - Department of Veterans Affairs.
  - Military inventory control points.
- Mandatory Federal Supply Schedules.
- Optional use Federal Supply Schedules.
- Commercial sources, including educational and nonprofit institutions.

#### Services

- Procurement lists of services available from the Committee for Purchase from the Blind and Other Severely Handicapped ("Workshops").
- Mandatory Federal Supply Schedules and mandatory GSA term contracts for personal property rehabilitation.
- Optional use Federal Supply Schedules and optional use GSA term contracts for personal property rehabilitation.
- Federal Prison Industries, Inc.
- Other commercial sources, including educational and nonprofit institutions.

Exhibit 6-14. Required Sources of Supplies and Services, in Priority Order.

#### SUPPLIES AND SERVICES FROM SPECIFIC SOURCES

FAR 8.002

Required sources have been designated for the following commodities:

- Public utility services.
- Printing and related supplies.
- Automatic data processing and telecommunications acquisitions.
- Leased motor vehicles.
- Excess strategic and critical materials.
- Helium.

Exhibit 6-15. Supplies and Services from Specific Sources.

#### Mailing Lists of Open Market Sources

FAR 14.205

When required sources cannot meet the Government's need, CO's turn to the open market. This entails identifying potential suppliers and developing mailing lists of the suppliers. Prospective offerors are added to these lists after they submit an application describing the company and the kinds of supplies and services that they offer.

When issuing an IFB or RFP, the CO solicits:

- Sources recommended in the PR by the requiring activity.
- Sources on the appropriate mailing list.
- Other sources that may respond as a result of the publicizing described in Chapter 7.

Using source lists and a solicitation mailing list:

- Helps to promote competition commensurate with the dollar value of the proposed contract
- Saves time and effort in finding sources for individual PRs.

#### **6.4.1.2** Set-Asides

FAR 19.5

- Define set-aside.
- Define small business.
- List types of set-asides.
- Explain the "Rule Of Two."

Set-Asides Defined

A set-aside is an acquisition reserved exclusively for small businesses and/or businesses in labor surplus areas. The CO sets aside an individual acquisition or class of acquisitions to:

- Ensure that a fair proportion of Government contracts in each industry category is placed with small businesses.
- Maintain or mobilize the nation's full-productive capacity.
- Aid war or national defense programs.

Small Business Defined

FAR 19.001

A small business concern means a concern (including its affiliates) which is (1) independently owned and operated, (2) not dominate in the field of operation in which it is bidding on Government contracts, and (3) qualifies as a small business under the criteria and size standards in 13 CFR Part 121. A "small disadvantaged business concern" means a small business concern that is (1) at least 51% unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or (2) a publicly owned business that has at least 51% of its stock unconditionally owned by one or more socially and economically disadvantaged individuals.

Size Standards

FAR 19.1

The Small Business Administration (SBA) establishes size standards on an industry-by-industry basis. The standards are based on either the number of employees in a company or the annual receipts of a company. The size standards are listed in the FAR for each Standard Industrial Classification (SIC) code. The number of employees or annual receipts for each SIC code establish the maximum limits on eligibility for classification as a small business concern. Some examples are provided in Exhibit 6-16.

| EXAMPLES OF SIZE STANDARDS SET BY THE SBA |   |               |
|---|---|---------------|
| SIC Code                                  | Description                             | Size          |
| 1541                                      | General Contractor-Industrial Buildings | \$17 Million  |
| 1731                                      | Electrical Work                         | \$7 Million   |
| 7538                                      | General Automotive Repair Shops         | \$3.5 Million |
| 3111                                      | Leather Tanning and Finishing           | 500 People    |
| 3398                                      | Metal Heat Treating                     | 750 People    |
| 3482                                      | Small Arms Ammunition                   | 1000 People   |
|   |   |               |

Exhibit 6-16. Examples of Size Standards Set by the SBA.

Size standards are used as follows:

- The CO issues an IFB for electrical work.
- The IFB is set aside for small business.
- The size standard in the IFB is expressed as "SIC Code 1731, Size Standard \$7.0 million." Only electrical contractors with annual average gross revenues of \$7.0 million or less are eligible for award.

#### Purpose of Set-Asides

Agencies establish set-aside programs to achieve their small business goals. To achieve a fair proportion of set-asides, agencies may decide on a case-by-case basis or on a "class" basis, (e.g., all purchases of a given commodity are set aside for small business). Decisions to set aside all or a part of a given acquisition may involve the following:

- Representatives of the Small Business Administration.
- Representatives of the requiring activity.
- The small business specialist in the contracting office.
- The CO.

Types of Set-Asides

The small business and labor surplus area set aside programs can be further divided into the following four categories:

#### 1. Total Small Business Set-Aside

Under a total set-aside, the entire amount of an individual acquisition or class of acquisitions is reserved for small business concerns. In general, contracting officers set aside any acquisition over \$100,000 for small business participation when there is a reasonable expectation that (1) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns; and (2) award will be made at fair market prices.

#### 2. Partial Small Business Set-Aside

Under a partial set-aside, part of the requirement is reserved exclusively for small business concerns. This may happen when a requirement is too large to be filled entirely by a small business. To establish a partial set-aside, the CO must be able to divide the requirement into reasonably sized lots or batches.

#### 3. Small Business—Simplified Acquisition

FAR 13.105 & 19.502-2

Simplified acquisitions over \$2,500 but not over \$100,000 are generally reserved for small business concerns. There are several exceptions to this broad set-aside. For instance, the CO may solicit quotations from large business concerns if there is no reasonable expectation of obtaining quotations from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis.

#### 4. Labor Surplus Area (LSA)

FAR 19.202-3

Contracting officers cannot set-aside procurements for LSA concerns, but in the event of equal low bids, "awards shall be made first to small business concerns which are also LSA concerns".

### 6.4.1.3 8(a) Procurements

- Define the purpose of the 8(a) Program.
- Describe why an 8(a) program might be used to meet a specific requirement for supplies or services.

Purpose

FAR 19.8

Section 8(a) of the Small Business Act of 1953 authorizes the Small Business Administration (SBA) to serve as a prime contractor in meeting the requirements of Federal agencies. SBA then subcontracts with small businesses that are at least 51% owned by socially and economically disadvantaged persons. The program gives such firms an opportunity to develop into experienced, strong competitors for future contracts. However "an 8(a) contract may not be awarded if the price of the contract results in a cost to the awarding agency which exceeds a fair market price."

When the award price is likely to exceed \$3 million, award of an 8(a) contract may have to be made through competitive sealed bid or negotiated procedures.

Utility

While some 8(a) acquisitions must now be competed, many 8(a) acquisitions are not subject to the requirements of Full and Open Competition. This translates into reduced lead time for award. Moreover, many 8(a) contractors have proven to be sure, reliable, and economical performers. Once again, market research is the key to making the 8(a) program work for your agency.

### **6.4.1.4** Competition Requirements

FAR Part 6

- Define and describe full and open competition (FAOC).
- Describe when other than full and open competition is permitted.

**FAOC Defined** 

FAR 6.003

The Competition In Contracting Act (CICA) of 1984 requires COs to promote and provide for FAOC in soliciting offers and awarding contracts. FAOC means that all responsible sources are permitted to compete.

Other Than FAOC

FAR 6.3

FAOC is not required for contracts awarded through the simplified acquisition procedures of FAR Part 13 or, for the most part, when ordering against multiple award schedules of the General Services Administration. In addition, there are seven statutory circumstances that permit contracting without FAOC (see Exhibit 6-18).

**Exclusion of Sources** 

CO's also have statutory authority to exclude some sources from competing for a particular acquisition, when necessary to:

FAR 6.2

- Set-aside the contract (i.e., to exclude firms other than small business from competing for the award).
- Make a competitive award to an 8(a) firm.
- Establish secondary or back-up sources for national defense purposes.
- Establish or maintain certain research and development organizations.

### CIRCUMSTANCES PERMITTING OTHER THAN FULL AND OPEN COMPETITION

- 1. Only one responsible source (or a limited number for DoD, NASA, Coast Guard) and no other supplies or services will satisfy agency requirements, such as when:
  - No other source is available.
  - The contract is a "follow-on" for the continued development or production of a major system or highly specialized equipment or for the provision of highly specialized services, if switching contractors would result in unacceptable delays or a substantially higher cost.
  - The contract is in response to an unsolicited research proposal (see section 6.4.1.5).
- 2. Unusual and compelling urgency, when:
  - Time does not permit FAOC, and
  - Delay in award would result in serious financial or other injury.
- 3. Industrial mobilization; or engineering, developmental, or research capability, when there is a need for:
  - Maintaining a facility, producer, manufacturer, or supplier in case of a national emergency or wartime industrial mobilization, or
  - An essential engineering or research and development capability to be provided by educational or nonprofit institutions or federally funded research and development centers.
- 4. International agreements, when the terms of an international agreement or treaty preclude FAOC.
- 5. Authorized or required by statute, as is the case when procuring from:
  - UNICOR (Federal Prison Industries).
  - Qualified Nonprofit Agencies for the Blind or other Severely Handicapped.
  - GPO or GPO contracts for printing and binding.
  - 8(a) contractors.
  - Other required sources.
- 6. National Security, when it would be compromised by broad disclosure of needs.
- 7. Public Interest, when the agency head determines that FAOC would be contrary to it.

Exhibit 6-18. Circumstances Permitting Other than Full and Open Competition.

FAR 6.304

In most instances, a written justification is required if FAOC is not provided for. Generally, the justification is prepared by the CO based on information provided by the requiring activity. Depending on the dollar value of the proposed contract, the justification must be approved in writing by:

- The CO (if the proposed contract does not exceed \$500,000).
- The competition advocate (if between \$500,000 and \$10,000,000).
- The head of the "procuring" (i.e., generally the same as contracting) activity or designee (if between \$10,000,000 and \$50,000,000).
- The senior procurement executive (if over \$50,000,000) of an agency other than DoD, NASA, or the Coast Guard.

### 6.4.1.5 Unsolicited Proposals

FAR 15.5

- Define the term unsolicited proposal.
- Explain the procedure for handling and receiving an unsolicited proposal.

#### Definition

An unsolicited proposal is:

"a written proposal that is submitted to an agency on the initiative of the submitter for the purpose of obtaining a contract with the Government and which is not in response to a formal or informal request..."

FAR 6.302-1(a)(2)(i), 15.503

Award without full and open competition is permitted if a firm has submitted an unsolicited research proposal that:

- A. Demonstrates a unique and innovative concept or a unique capability of the source to provide the particular research services proposed.
- B. Offers a concept or services not otherwise available to the Government, and
- C. Does not resemble the substance of a pending competitive acquisition.

## Processing Unsolicited Proposals

Federal agencies are responsible for establishing contact points and procedures for the receipt, handling, and evaluation of unsolicited proposals. The Government only comprehensively evaluates unsolicited proposals that are related to its mission. If an unsolicited proposal receives a favorable evaluation, the requiring activity forwards the

#### **6.4.2** Selection Factors

unsolicited proposal to the CO. However, the CO may only award without competition under the conditions specified in FAR 15.507. When competition is anticipated, the CO must have a basis for selecting the best offer. Price or cost to the Government is a mandatory factor in source selections. Other factors may also be used to select the source whose offer will be most advantageous to the Government. The following subsections identify some of those factors.

## 6.4.2.1 Lease vs Purchase

FAR 7.4

- Explain the criteria for determining whether leasing or purchasing is more advantageous to the Government.
- Identify types of equipment commonly leased.

Criteria

The Government solicits offers for equipment by leasing, purchasing, or both. If the CO decides to solicit both kinds of offers, he or she evaluates them and determines whether a purchase or a lease represents the lowest cost to the Government. Leasing with an option to purchase is also possible.

Agencies decide whether to lease or purchase equipment on a case-bycase evaluation of comparative costs and on other factors such as:

- Net purchase cost vs the cumulative leasing cost.
- Potential obsolescence.
- Immediate need vs uncertain long-term need.
- Transportation, installation, and maintenance costs.
- Funding availability.

Types of Equipment Commonly Leased

Some examples of equipment that may be suitable for leasing are:

- ADP (automated data processing).
- Materials handling and heavy construction equipment.
- Automobiles.
- Office machines.

# **6.4.2.2** Price-Related Factors

FAR 14.201-8 & 15.605

Purpose

- Define price-related factors and their purposes.
- List typical price-related factors.

At times, contracting officers can determine the lowest priced offer simply by looking at the bottom line. For other procurements, the lowest priced item actually might cost the Government more than a higher priced item, when the cost of ownership is considered. For example, Brand A might cost \$100 less to buy but cost \$300 more a year in electricity than Brand B. Hence, like any other consumer, the Government needs the flexibility to select that offer or combination of offers that represents the "best buy" in terms of lowest total cost to the Government over the expected life of the deliverable. Price related factors provide the Government that flexibility.

One of the most commonly applied factors is transportation costs. For example:

Company B is the low offeror. However, delivery is FOB origin, meaning the Government will pay delivery charges to the destination. The cost of shipping from Company A is \$900 and the cost of shipping from Company B is \$2100. The price-related factor (transportation) would result in total costs to the Government as follows:

- Company A \$60,000 + \$900 = \$60,900
- Company B \$59,200 + \$2,100 = \$61,300

Accordingly, it would be in the "best interests of the Government" to award to Company A.

To be fair to the offerors, however, the Government must tell offerors in the solicitation which price-related factors, if any, will apply in calculating the "best buy" price. One of the contracting officer's roles in source selection planning is to select price-related factors for the procurement.

Exhibit 6-19 lists some of the more commonly applied factors.

## COMMONLY APPLIED PRICE-RELATED FACTORS

FAR 14.201-8

- 1. Foreseeable costs or delays:
  - Transportation costs.
  - Cost of furnishing government property to the contractor.
  - Prices for various options.
  - Submission of separate prices for leasing the item vs buying it.
  - Proposed or expected costs for maintenance, warranty, repairs, training, installation, manuals, spares, and supplemental supplies.
  - Expected energy costs.
  - Life-cycle cost (i.e., expected life, salvage value; discounted total cost of ownership).
- 2. Changes requested by an offeror, provided that the offer is not rejected.
  - Assumed Economic Price Adjustments (if offerors propose different terms than established in the solicitation).
- 3. Advantages or disadvantages from making more than one award.
  - Incremental pricing (i.e., separate prices for different lots—such as one price for the first 100 of the item, and a separate price for the next 500).
  - Family buy pricing (i.e., separate prices for different combinations of line items).
  - \$500 is used as administrative cost for each additional award made.
- 4. Federal, State, and local taxes.
- 5. Origin of Supplies
  - Buy American Act.
  - Trade Agreements Act.

Exhibit 6-19. Commonly Applied Price-Related Factors.

**NOTE**: Price-related factors are listed in Section M of the solicitation.

# **6.4.2.3 Technical** Evaluation Factors

- State the role of the CO in reviewing the technical evaluation factors.
- Describe technical evaluation factors and their purposes.
- Define the terms reliability and validity.

# FAR 15.605

CO's Role in Establishing Factors

When the contracting officer selects an offer for award based on more than just price, these non-price related factors are known as technical evaluation factors. The factors are drafted by the requiring activity, reviewed by the CO for clarity and completeness, and included in the solicitation.

Purpose of Technical Evaluation Factors Technical evaluation factors are used when the quality of technical performance is as important as, or more important than, price. Exhibit 6-20 lists potential technical evaluation factors.

#### POTENTIAL TECHNICAL EVALUATION FACTORS

- Understanding the problem.
- Technical approach or methodology.
- Qualifications of key personnel.
- Experience in performing the same or similar work.
- Management capability.
- Past performance.

Exhibit 6-20. Potential Technical Evaluation Factors.

"Go/No-Go"

Sometimes the only issue is whether the contractor's technical proposal is or is not acceptable. In these cases the technical evaluation factors are used only on a "go/no go" basis.

Greatest Value

In other cases, proposals are scored or rated against the factors by technical personnel to help determine which offerors have the best potential for successfully completing the work. Higher rated proposals are given more favorable consideration than lower rated proposals. At times, based on technical rankings, the CO will award to an offer with a higher price than an offer that ranked lower on technical factors.

## For example:

If the statement of work requires the development of an item that will later be produced in quantity, a technical evaluation factor might be "Design for Producibility." The extent to which the producibility factor is addressed in the proposal is evaluated and rated.

# Reliability and Validity

To achieve the goal of identifying the "best" offeror, evaluation factors must be reliable and valid:

**To be reliable**, a factor should cause comparable evaluators to evaluate the same proposal consistently.

**To be valid**, a firm ranking high on the factor should in fact have a higher probability of successfully performing the work than a firm that ranks low on the factor.

# Business Management Factors

Some technical factors address the capability of the offeror to perform the work, as opposed to the technical merits of the proposal. When used in ranking proposals, such factors are often referred to as "business management" factors. If applied on a "pass/fail basis," such factors represent "special standards of responsibility" for use in determining an offeror's responsibility (see section 7.4.1.2).

#### 6.4.3 Procurement Method

Describe these procurement methods and the criteria for using them:

- Simplified Acquisition Procedures
- Sealed Bidding
- Negotiation
- Two-Step Sealed Bidding

The contracting officer completes the pre-solicitation phase by deciding which of the above four "methods of procurement" will be used for actually soliciting offers or quotations.

This decision about which method to use is based on factors such as the ones listed below in Exhibit 6-21:

#### FACTORS IN DETERMINING THE METHOD OF PROCUREMENT

- Estimated cost or price of the item or service.
- Whether an item exists or must be developed.
- Complexity of the work to be performed.
- Type of specifications used.
- Competitive nature of the supplies or services to be acquired.

Exhibit 6-21. Factors in Determining the Method of Procurement.

# Simplified Acquisition Procedures

Simplified acquisition procedures (SAP) are used for the acquisition of supplies, nonpersonal services, and construction when the aggregate amount does not exceed \$100,000. Among the simplified procedures of Part 13:

# FAR Part 13

- Micropurchases.
- Purchases made with the Governmentwide commercial purchase card.
- Purchase Orders (using paper, FACNET, or other electronic forms).
- Blanket Purchase Agreements.
- Imprest Funds.

It is common for agencies to assign responsibility for placing delivery orders against established contracts to activities that specialize in simplified acquisitions, even when the price of an order exceeds the \$100,000 threshold that applies to the procedures in Part 13 of the FAR.

FAR Part 13 procedures are considered "simplified" because many of the requirements applicable to FAR Part 14 sealed bidding and to FAR Part 15 negotiation procedures do not apply, particularly in the following areas:

- Solicitations:
  - No requirement for an IFB or RFP.
  - Can be oral rather than in writing, save for construction contracts over \$2,000.

# • Competition:

- Exempt from requirements for FAOC (see Section 6.4.1.4).
- No requirement to compete purchases under the micropurchase threshold, if the CO considers the price to be reasonable.
- Required only to obtain competition from a reasonable number of sources (ordinarily three) for purchases over \$2,500. For purchases over \$25,000, however, non-FACNET transactions generally are advertised in the Commerce Business Daily. Moreover, generally COs must consider all quotations timely received in response to CBD notices or public postings.
- Solicitation provisions and contract clauses: Many do not apply to simplified acquisitions.
- Forms: Simplified, less time consuming to complete.

As might be implied by the low dollar threshold, supplies acquired by SAP are often standard, off-the-shelf items readily available from local dealer or vendor inventory. Those items can be delivered in a matter of days or purchased over-the-counter. Similarly, services acquired in this manner are generally of short duration and may be obtained from the local market.

SAP are especially useful for fulfilling small, repetitive needs from the local market place: office supplies; automotive parts and services; equipment repair; parts or services for building maintenance, etc. Simplified acquisitions:

- Are generally reserved for small business concerns.
- Reduce administrative costs to the Government.
- Expedite the acquisition of supplies or services.

COs use the simplified procedure that is most appropriate for the specific acquisition.

FAR 13.106-2

#### **Sealed Bidding**

FAR 6.401

FAR Part 14

Sealed Bidding is generally used for the acquisition of supplies or services that can be precisely described and competed only on the basis of price and price-related factors. In addition, the following conditions must also be present:

• Time permits the solicitation, submission, and evaluation of sealed bids.

# • It is not necessary to conduct discussions with the offerors about the bids (adequate item descriptions or specifications are available).

• There is a reasonable expectation of receiving more than one sealed bid.

When sealed bidding is used:

- The CO publicizes the proposed action.
- The CO issues an Invitation for Bids (IFB).
- Offerors submit sealed bids.
- The bids are publicly opened.
- Award is made to the low, responsive, responsible bidder.

The low bid price is the "evaluated" low price. That is, price-related factors, such as transportation costs, are considered together with the bid price to determine which bid results in the lowest overall or evaluated cost to the Government. Price-related factors, if any, must be stated in the IFB.

# Negotiation Procedures

#### FAR Part 15

Negotiation procedures are used when sealed bidding is not appropriate. Negotiation means contracting through the use of either competitive or other-than-competitive proposals and discussions. Any contract awarded without using sealed bidding procedures is a negotiated contract.

When competitive negotiation is used, the CO generally will:

- Publicize the proposed action.
- Issue a request for proposals (RFP).
- Evaluate proposals (technical and price).
- Establish a "competitive range" that consists of proposals that have a reasonable chance of being selected for award.
- Hold discussions with offerors in the competitive range.

#### PRESOLICITATION PHASE

- Request best and final offers from offerors in the competitive range.
- Award a contract based on price and the other evaluation factors stated in the RFP.

For noncompetitive proposals (i.e., "sole source" procurements ), the CO negotiates with the offeror until satisfied that the contract price and other terms and conditions are acceptable to the Government.

Two-Step Sealed Bidding

Two-Step Sealed Bidding is a combination of competitive negotiation and sealed bidding. The procedure is designed to obtain the benefits of sealed bidding when adequate specifications are not available and discussions with offerors might be necessary. The steps are:

FAR 14.5

- 1. The CO issues a request for technical proposals after publicizing the proposed action. Technical proposals received are evaluated, and, if necessary, discussed. The objective is to determine the acceptability of the supplies or services offered. Pricing is not involved.
- 2. Sealed bids are solicited from only those sources that submitted acceptable technical proposals under step one. Award is made as in sealed bidding. Step 2 is not publicized.

## **6.4.4** Procurement Planning

- Define procurement planning.
- Describe a procurement plan, listing the basic elements.
- Describe the source selection elements that need to be incorporated in the overall procurement plan.
- Describe formal vs informal source selection.
- Identify the selection official in formal source selections.

### **Definition and Purpose**

In Section 6.1.2, we discussed acquisition planning by requiring activities and stated that such plans serve, among other purposes, as the basis for initiating Purchase Requests (PRs). This section discusses planning by COs for carrying out their responsibilities for awarding contracts against PRs.

For the purposes of this text, procurement planning by the CO is covered as the last act of the presolicitation phase. However, COs begin planning the steps in awarding a contract from the moment that they are apprised of a requirement. Procurement planning is discussed at this point because the plan must be complete before the CO moves on to the solicitation-award phase.

COs generally put their plan for awarding a contract in writing only for a complex requirement that will take an extended period of time to award. Whether or not the plan is committed to writing, the CO for any acquisition must:

- Record and document the key procurement planning decisions (e.g., on the extent of competition and price-related factors).
- Identify tasks necessary to award the contract and key decision points.
- Identify the responsible person or office for each such task (e.g., for conducting a technical evaluation).
- Establish and track milestones (e.g., the due date for completing a technical evaluation).
- Identify officials who are responsible for concurrences, clearances, or approvals.

The CO's plan therefore usually includes or addresses the items described in Exhibit 6-22.

### TYPICAL ELEMENTS OF A PROCUREMENT PLAN

- The Purchase Request (PR).
- Documentation of discussions and agreements with the requiring activity on elements of the PR.
- Decisions on the extent of competition for award, including any necessary justifications for restricting competition.
- Decisions on selection factors to be applied in competitive acquisitions, and the rationale for each such factor.
- Decision on the method of procurement.
- Preliminary decisions on provisions and clauses for the for the acquisition (e.g., on type of contract).
- Milestones for awarding the contract.
- Related tasks (e.g., technical evaluation of offers).
- Persons or offices responsible for performing the tasks and meeting designated milestones.
- Officials responsible for concurrences, clearances, or approvals.
- Preliminary plans for administering the contract (see Section 8.1.1 of this text).

Exhibit 6-22. Typical Elements of a Procurement Plan.

In addition to the stated purpose of a procurement plan, there is another benefit to the CO. When all of the current procurement plans in the contracting office are taken as a whole, the CO can use them to:

- Forecast workload and staffing levels.
- Make major work assignments within the office.

Source Selection Elements of the Plan

When planning for an acquisition, the CO must consider how the eventual awardee(s) will be selected and include the appropriate clauses and selection factors in the solicitation. Among the selection considerations are:

- Determination of number of awards.
- Identification of all price-related factors.
- Identification of any technical and business management evaluation factors.
- Overall evaluation weight of technical business management factors vs price-related factors.
- Need for a Formal Source Selection Plan.

Formal Source Selection

FAR 15.612

For formal source selection, most agencies have established detailed source evaluation and selection procedures. Generally, these procedures prescribe:

- Establishment of a group to evaluate proposals.
- Naming of a Source Selection Authority who might be the CO, the requiring activity manager, or a higher level agency official, depending on the size and importance of the acquisition.
- Preparation of a written source selection plan.

Several agencies have developed alternative source selection procedures which will be reflected in the source selection plan and which depart materially from the process generally prescribed for competitive negotiations in Subpart 15.6 of the FAR.

Formal source selection plans are designed to:

- Maximize competition.
- Minimize the complexity of the solicitation, evaluation, and selection decision.
- Ensure impartial and comprehensive evaluation of proposals.
- Ensure selection of the source whose proposal is the most realistic and whose performance is expected to best meet the requirements.

However, the majority of procurements use informal procedures, and the CO is the source selection official. Even so, if any factors in addition to price are to be used, they must be stated in the solicitation and used in selecting the awardee.

# PRESOLICITATION PHASE